

DEPARTMENT OF STATE REVENUE

04970620.LOF

LETTER OF FINDINGS NUMBER: 97-0620 RST

Sales Tax

For The Period Ending: August 31, 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Tax Administration - Negligence Penalty

Authority: IC 6-8-1-10-2.1(d), 45 IAC 15-11-2

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer operates a nursery and crafts business in Indiana and makes monthly EFT payments.

I. Tax Administration - Negligence Penalty

DISCUSSION

The taxpayer protests the imposition of the late filing penalty. In support of its protest, the taxpayer states in a letter dated November 6, 1997 that over the past several months, they have had a high turnover in staff and that a new employee observed the due date indicated on the payment voucher of 30 days after the end of each month as being timely made. Taxpayer further asserts that the employee was unaware this due date did not apply because they were an EFT payer.

The taxpayer incurred late payment penalties for August 1997 and September 1997 due to the above. Because the taxpayer had an excellent payment record (incurring one late withholding tax payment in 1990) the department allowed the waiver of the August penalty but retained the September penalty.

IC 6-8.1-10-2 allows the waiver of penalty if the taxpayer can show that the failure to timely file and pay the full amount of tax was due to reasonable cause. The failure to timely remit the tax due by a new employee not being aware of the payment dates is not reasonable cause.

FINDING

The taxpayer's protest is denied. The department waived one negligence penalty, and will retain the ensuing month's penalty.